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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,158	07/11/2001	Masashi Ohta	275766US6	2159

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EXAMINER	
NGUYEN, HUY THANH	
ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/903,158	OHTA ET AL.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,3 5-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagasaka et al (5,974,218).

Regarding claim 1,7Nagasaka discloses a video-signal recording and playback apparatus (Figs. 1,4 and 7) for recording or playing back a video signal, said video signal recording and playback apparatus comprising:

extracting means for extracting a static picture from a sequence of video signals with a predetermined timing (Fig 7) ;

judgment means for forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture; and

setting means for setting said static picture as a representative picture in accordance with an outcome of a judgment formed by said judgment means (column 9, lines 55 to 68, columns 13-14).

Claims 5 and 6 correspond to apparatus claim 1. Therefore method claims 5-6 are rejected by the same reason as applied to apparatus claim 1.

Further for claim 6, Nagasaka further teaches a program readable program since Nagasaka teaches that the extracting representative pictures is control by a computer (Figs1,4).

Regarding claims 3 and 9, Nagasaka further teaches wherein said judgment means is capable of forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of a histogram of said static picture (column 4, lines 55-68).

3. Claims 1, 3, 5-7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Yeo et al (6,870,573).

Regarding claims 1 and 7 , Yeo discloses a video-signal recording and playback apparatus (3-5) for recording or playing back a video signal, said video signal recording and playback apparatus comprising:

extracting means for extracting a static picture from a sequence of video signals with a predetermined timing (Fig 5) ;

judgment means for forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture; and

setting means for setting said static picture as a representative picture in accordance with an outcome of a judgment formed by said judgment means (column 6, lines 60 to column 7, line 68).

Claims 5 and 6 correspond to apparatus claim 1. Therefore method claims 5-6 are rejected by the same reason as applied to apparatus claim 1.

Further for claim 6, Yeo further teaches a program readable program since Yeo teaches that the extracting representative pictures is control by a computer (Fig. 4).

Regarding claims 3 and 9, Yeo further teaches the video-signal recording and playback apparatus according to claim 1, wherein said judgment means is capable of forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of a histogram of said static picture (column 7, line 1-10).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasaka et al (5,974,218) in view of Hibi e al (5,546,191).

Regarding claim 2, Nagasaka fails to specifically teach that the judgment means is capable of forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of whether or not said static picture is a part of a commercial .

Hibi teaches an apparatus having a judgment means for forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of whether or not said static picture is a part of a commercial (Hibi column 25, lines 20-45).

It would have been obvious t o of ordinary skill in the art to modify Nagasaka with Hibi by using a judgment means as taught by Hibi with the apparatus of Nagasaka as an additional judgment means for forming a judgment as to whether or

not a static picture extracted by said extracting means can be used as a representative picture on the basis of whether or not said static picture is a part of a commercial thereby enhancing the capacity of the apparatus of Nagasaka .

6. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeo et al (6,870,573) in view of Hibi et al (5,546,191) .

Regarding claim 2, Yeo fails to specifically teach that the judgment means is capable of forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of whether or not said static picture is a part of a commercial .

Hibi teaches an apparatus having a judgment means for forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of whether or not said static picture is a part of a commercial (Hibi column 25, lines 20-45).

It would have been obvious t o of ordinary skill in the art to modify Yeo with Hibi by using a judgment means as taught by Hibi with the apparatus of Yeo as an additional judgment means for forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of whether or not said static picture is a part of a commercial thereby enhancing the capacity of the apparatus of Yeo.

7. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeo et al (6,870,573) in view of Tonomura et al (6,5,71,054).

Regarding claim 4, Yeo fails to teach that said judgment means is capable of forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of an edge of said static picture.

Tonomura teaches an apparatus having a judgment means for forming a judgment as to whether or not a static picture extracted by said extracting means can be used as a representative picture on the basis of an edge of said static picture (column 7, lines 15-25).

It would have been obvious to one of ordinary skill in the art to modify Yeo with Tonomura by providing the apparatus of Yeo with a judgment means as taught by Tonomura as an additional judgment means for to detecting a representative picture by using a edge of the picture thereby enhancing the capacity of the apparatus of Yeo.

Response to Arguments

8. Applicant's arguments filed 21 February 2006 have been fully considered but they are not persuasive.

Applicant argues that Nagasaka does not teach judging mechanism fro judging a static picture . In response, the examiner disagrees. It is noted that Figs. 7 and 8, columns 13 and 14, Nagasaka teaches that the static picture extracted from a moving

picture are stored in a file , the stored static pictures are then determined or judged to be become representative pictures of a program for moving picture (the displayed static pictures are considered as the claimed representative pictures).

Applicant argues that Yeo does not teach judging the extracted static picture . In response, the examiner disagrees. It is noted that Yeo at columns 7-8 teaches that the static pictures are extracted (captured) and then are stored , the stored static picture is analyzing to determine whether the extracted static picture can be used as visual program summary (representative pictures) . It is clear that Yeo teaches judging the static picture . Applicant argues that Yeo teaches deleting the frames . In response, it noted that Yeo teaches deleting the frames that considered are not visual program summary (representative pictures for the program). Further it is noted that applicant's argument is not reflected the claims since the claims do not specify how the static picture are judged and the representative are selected.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Abe and Chotoku teaches apparatus for processing representative pictures .

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

HUY NGUYEN
PRIMARY EXAMINER